

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-32531 - APPLICANT: CLEARWIRE US, LLC - OWNER:
YS & AJ ASSOCIATES**

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permits (U-0056-01 and SUP-32604) shall be required, if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a 70-foot Wireless Communications Facility, Stealth Design (Flagpole) to have a 180-foot setback where Residential Adjacency standards require 210 feet on 1.70 acres at 450 S. Buffalo Drive. A request for a Special Use Permit (SUP-32604) has also been submitted for a proposed 10-foot extension of an existing 60-foot existing Wireless Communications Facility, Stealth Design (Flagpole). The proposed addition in height to the existing wireless communications facility will precipitate an increase in visual intrusion upon the surrounding community, and therefore impact its welfare. As such, the use cannot be conducted in a harmonious manner and staff is recommending denial of this application and the associated Special Use Permit.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
07/05/01	The City Council approved a Special Use Permit (U-0056-01) for a Wireless Communications Facility (Stealth Flagpole) at 450 S. Buffalo Drive. The Planning Commission recommended denial.
10/23/08	The Planning and Development Department denied a request for administrative approval of a Site Development Plan Review (SDR-29742) of a 10-foot extension and co-location of six additional antennas to a 60-foot tall Wireless Communication Facility, Stealth Design (Flagpole) at 450 South Buffalo Drive.
<i>Related Building Permits/Business Licenses</i>	
09/11/00	A building permit (#16890) was issued for tenant improvement and a certificate of occupancy for an equipment room for a Wireless Communications Facility at 450 S. Buffalo Drive. The permit was finalized on 08/27/01.
<i>Pre-Application Meeting</i>	
11/26/08	A pre-application meeting was held to discuss the requirements for extending an existing Wireless Communications Facility, Stealth Design, including the need for a Special Use Permit and Variance for Residential Adjacency.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was neither required nor held for this application.	
<i>Field Check</i>	
12/24/08	A field check was conducted by staff. The subject site contains a shopping center with the existing 60-foot tower located in the parking lot.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	1.70 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Commercial Center and Wireless Communications Facility, Stealth Design	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
South	Auto Repair Garage, Bank	SC (Service Commercial)	C-1 (Limited Commercial)
East	Single-Family Residences	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single-Family Residences	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	N/A	74,473 SF	N/A
Min. Lot Width	100 Feet	250 feet	Y
Min. Setbacks			
• Front	20 Feet	112 Feet	Y
• Side	10 Feet	190 Feet	Y
• Corner	15 Feet	60 Feet	Y
• Rear	20 Feet	180 Feet	Y
Mech. Equipment	Screened, Enclosed	Screened, Enclosed	Y

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Pursuant to Title 19.08.060, the following standards apply:

Residential Adjacency Standards	Required/Allowed	Provided	Compliance
3:1 proximity slope	210 Feet	180 Feet	N*
Adjacent development matching setback	15 Feet	180 Feet	Y

**This Variance has been submitted to allow a 180-foot setback where Residential Adjacency standards require 210 feet.*

ANALYSIS

This is a request for a Variance (VAR-32531) to allow a 70-foot Wireless Communications Facility, Stealth Design (Flagpole) to have a 180-foot setback where Residential Adjacency standards require 210 feet at 450 S. Buffalo Drive. At a height of 60 feet, the existing tower meets the minimum 180-foot setback from residential property, as required by Title 19.08.060 Residential Adjacency Standards; the request for additional height at this location is a self-imposed hardship that could be alleviated by alternative siting of the additional wireless antennas. The proposed addition in height to the existing wireless communications facility will precipitate an increase in visual intrusion upon the surrounding community, and therefore impact its welfare. As such, the use cannot be conducted in a harmonious manner and staff is recommending denial of this application and the associated Special Use Permit.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.18.070L states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution."

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a Wireless Communications Facility that does not meet the minimum Residential Adjacency standards of Title 19.08.060. Alternative siting would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

ASSEMBLY DISTRICT 3

SENATE DISTRICT 8

NOTICES MAILED 410

APPROVALS 0

PROTESTS 3